

ASSEMBLY BILL

No. 2634

Introduced by Assembly Member Bradford

February 21, 2014

An act to amend Section 52.1 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 2634, as introduced, Bradford. Civil rights.

Under existing law, if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or enjoyment of the right or rights secured. Existing law also authorizes an individual whose exercise or enjoyment of those rights has been interfered with, or attempted to be interfered with, as described, to institute and prosecute a civil action for damages, including, but not limited to, specified damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

This bill would authorize injunctive relief to include injunctive relief against nonparties to prohibit the underlying act, if a civil action is brought in response to an act under color of law, and it is established that the act under color of law is the result of a pattern or practice of activity.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 52.1 of the Civil Code is amended to
2 read:

3 52.1. (a) If a person or persons, whether or not acting under
4 color of law, interferes by threats, intimidation, or coercion, or
5 attempts to interfere by threats, intimidation, or coercion, with the
6 exercise or enjoyment by any individual or individuals of rights
7 secured by the Constitution or laws of the United States, or of the
8 rights secured by the Constitution or laws of this state, the Attorney
9 General, or any district attorney or city attorney may bring a civil
10 action for injunctive and other appropriate equitable relief in the
11 name of the people of the State of California, in order to protect
12 the peaceable exercise or enjoyment of the right or rights secured.
13 An action brought by the Attorney General, any district attorney,
14 or any city attorney may also seek a civil penalty of twenty-five
15 thousand dollars (\$25,000). If this civil penalty is requested, it
16 shall be assessed individually against each person who is
17 determined to have violated this section and the penalty shall be
18 awarded to each individual whose rights under this section are
19 determined to have been violated.

20 (b) Any individual whose exercise or enjoyment of rights
21 secured by the Constitution or laws of the United States, or of
22 rights secured by the Constitution or laws of this state, has been
23 interfered with, or attempted to be interfered with, as described in
24 subdivision (a), may institute and prosecute in his or her own name
25 and on his or her own behalf a civil action for damages, including,
26 but not limited to, damages under Section 52, injunctive relief,
27 and other appropriate equitable relief to protect the peaceable
28 exercise or enjoyment of the right or rights secured. *If a civil action*
29 *is brought under this subdivision in response to an act under color*
30 *of law, and it is established that the act under color of law is the*
31 *result of a pattern or practice of activity, injunctive relief may*
32 *include injunctive relief against nonparties to prohibit the*
33 *underlying act.*

34 (c) An action brought pursuant to subdivision (a) or (b) may be
35 filed either in the superior court for the county in which the conduct

1 complained of occurred or in the superior court for the county in
2 which a person whose conduct complained of resides or has his
3 or her place of business. An action brought by the Attorney General
4 pursuant to subdivision (a) also may be filed in the superior court
5 for any county wherein the Attorney General has an office, and in
6 that case, the jurisdiction of the court shall extend throughout the
7 state.

8 (d) If a court issues a temporary restraining order or a
9 preliminary or permanent injunction in an action brought pursuant
10 to subdivision (a) or (b), ordering a defendant to refrain from
11 conduct or activities, the order issued shall include the following
12 statement: VIOLATION OF THIS ORDER IS A CRIME
13 PUNISHABLE UNDER SECTION 422.77 OF THE PENAL
14 CODE.

15 (e) The court shall order the plaintiff or the attorney for the
16 plaintiff to deliver, or the clerk of the court to mail, two copies of
17 any order, extension, modification, or termination thereof granted
18 pursuant to this section, by the close of the business day on which
19 the order, extension, modification, or termination was granted, to
20 each local law enforcement agency having jurisdiction over the
21 residence of the plaintiff and any other locations where the court
22 determines that acts of violence against the plaintiff are likely to
23 occur. Those local law enforcement agencies shall be designated
24 by the plaintiff or the attorney for the plaintiff. Each appropriate
25 law enforcement agency receiving any order, extension, or
26 modification of any order issued pursuant to this section shall serve
27 forthwith one copy thereof upon the defendant. Each appropriate
28 law enforcement agency shall provide to any law enforcement
29 officer responding to the scene of reported violence, information
30 as to the existence of, terms, and current status of, any order issued
31 pursuant to this section.

32 (f) A court shall not have jurisdiction to issue an order or
33 injunction under this section, if that order or injunction would be
34 prohibited under Section 527.3 of the Code of Civil Procedure.

35 (g) An action brought pursuant to this section is independent of
36 any other action, remedy, or procedure that may be available to
37 an aggrieved individual under any other provision of law,
38 including, but not limited to, an action, remedy, or procedure
39 brought pursuant to Section 51.7.

1 (h) In addition to any damages, injunction, or other equitable
2 relief awarded in an action brought pursuant to subdivision (b),
3 the court may award the petitioner or plaintiff reasonable attorney's
4 fees.

5 (i) A violation of an order described in subdivision (d) may be
6 punished either by prosecution under Section 422.77 of the Penal
7 Code, or by a proceeding for contempt brought pursuant to Title
8 5 (commencing with Section 1209) of Part 3 of the Code of Civil
9 Procedure. However, in any proceeding pursuant to the Code of
10 Civil Procedure, if it is determined that the person proceeded
11 against is guilty of the contempt charged, in addition to any other
12 relief, a fine may be imposed not exceeding one thousand dollars
13 (\$1,000), or the person may be ordered imprisoned in a county jail
14 not exceeding six months, or the court may order both the
15 imprisonment and fine.

16 (j) Speech alone is not sufficient to support an action brought
17 pursuant to subdivision (a) or (b), except upon a showing that the
18 speech itself threatens violence against a specific person or group
19 of persons; and the person or group of persons against whom the
20 threat is directed reasonably fears that, because of the speech,
21 violence will be committed against them or their property and that
22 the person threatening violence had the apparent ability to carry
23 out the threat.

24 (k) No order issued in any proceeding brought pursuant to
25 subdivision (a) or (b) shall restrict the content of any person's
26 speech. An order restricting the time, place, or manner of any
27 person's speech shall do so only to the extent reasonably necessary
28 to protect the peaceable exercise or enjoyment of constitutional or
29 statutory rights, consistent with the constitutional rights of the
30 person sought to be enjoined.